

## 46 Am. Jur. 2d Judges § 85

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### Judges

Glenda K. Harnad, J.D.; and Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.

### IX. Disqualification to Act in Particular Case

#### A. Disqualification to Act in Particular Case, in General

## § 85. Courts and proceedings in which rules of disqualification of judge apply

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  39, 40

The rules providing for the disqualification or substitution of judges apply to criminal<sup>1</sup> as well as civil cases where judicial functions are to be exercised,<sup>2</sup> whether in the lower courts<sup>3</sup> or in courts of last resort.<sup>4</sup> The rules governing the disqualification of judges have been applied to city court judges as well as justices of the peace and municipal judges.<sup>5</sup> A statute providing for the disqualification of the trial judge on a motion supported by affidavits of prejudice has also been applied in juvenile court cases.<sup>6</sup>

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### Footnotes

- 1 Ferguson v. State, 2016 Ark. 319, 498 S.W.3d 733 (2016); State ex rel. Greely v. District Court of Fourth Judicial Dist., 180 Mont. 317, 590 P.2d 1104 (1979); C. R. B. v. State, 1978 OK CR 22, 575 P.2d 636 (Okla. Crim. App. 1978).
- 2 Cadenasso v. Bank of Italy, 214 Cal. 562, 6 P.2d 944 (1932); State ex rel. Greely v. District Court of Fourth Judicial Dist., 180 Mont. 317, 590 P.2d 1104 (1979).
- 3 Roberts v. Noel, 296 S.W.2d 745 (Ky. 1956).
- 4 Eismann v. Miller, 101 Idaho 692, 619 P.2d 1145 (1980); Crain v. Missouri State Employees' Retirement System, 613 S.W.2d 912 (Mo. Ct. App. W.D. 1981); Grinnell v. State, 121 N.H. 823, 435 A.2d 523 (1981).
- 5 State v. Ketterer, 244 Minn. 127, 69 N.W.2d 115 (1955); State ex rel. Joslyn v. City Court of Choteau, 198 Mont. 223, 645 P.2d 428 (1982).
- 6 As to the disqualification of justices of the peace, generally, see Am. Jur. 2d, Justices of the Peace § 27. Daniel V. v. Superior Court, 139 Cal. App. 4th 28, 42 Cal. Rptr. 3d 471 (3d Dist. 2006).

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